

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH, NAGPUR.

Writ Petition No. 1656 of 07

Ku Malti v. Ku Kamal and ors

Office Notes, Office Memoranda of Coram, Court's or Judge's Orders
appearances, Court's orders or directions
and Registrar's orders.

Mr A.Z. Jibhkate, Advocate for petitioner
Mr R.S. Parsodkar, Advocate for respondent
no.1.

Coram : A.B. Chaudhari, J

Dated : 27.9.2007

1/ Heard Mr A.Z. Jibhkate, learned
counsel for petitioner and Mr R.S.
Parsodkar, learned counsel for respondent
no. 1.

2/ It appears from the submissions
made by the parties that the Division
Bench of this Court in Writ Petition No.
4091 of 2006 made an order on 20th
September 2006 holding that the order that
was impugned in the writ petition was
nothing but appointment of respondent no.4
therein as head-mistress by superceding

the petitioner therein. This Court further held that in that event a regular remedy was available to the petitioner and accordingly, the said petition was disposed of. It is in that background it appears that the respondent preferred appeal before the Tribunal under Section 9 of the MEPS Act. Now, Mr Jibhkate contends that appeal under Section 9 does not lie before the Tribunal against the order made by the Deputy Director of Education.

3/ Without expressing anything on this argument, it can only be observed that the appeal was filed in terms of the order passed by the Division Bench in WP No. 4091 of 06 which binds both the parties. If the petitioner had any such grievance about the jurisdiction of the Tribunal, the same could have been raised in the said writ petition, but that appears to have not been done. Decision in the case of Somsingh v. HM, Capt R.M. Oak HS, Thane and ors (2004 (2) Mh.L.J. 980) relied upon by Mr Jibhkate can easily be distinguished since that was a case of conferment of jurisdiction by consent.

4/ In view of the above, it is difficult to accept the submissions made by Mr A.Z. Jibhkate. Petition is, therefore, dismissed. No costs.

Judge.

hsj